

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
COURT NO. 13**

PARKLYNN SUCCESS LLC	§	
Plaintiff Below,	§	
Appellant	§	
	§	
VS	§	C.A. No. JP13-24-004159
	§	
	§	
SHARON WITSIL	§	
Defendant Below,	§	
Appellee	§	

TRIAL DE NOVO

Submitted: September 11, 2024

Decided: September 25, 2024

APPEARANCES:

Parklynn Success, LLC, Plaintiff, appeared represented by attorney Caren Sydnor, Esquire
Sharon Witsil, Defendant, appeared represented by attorney James J Woods, Jr, Esquire

Sean McCormick, Deputy Chief Magistrate, Justice of the Peace

Peter Burcat, Justice of the Peace

Maria Perez-Chambers, Justice of the Peace

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CIVIL ACTION NO: JP13-24-004159

PARKLYNN SUCCESS LLC VS SHARON WITSTIL

ORDER ON TRIAL DE NOVO

The Court has entered a judgment or order in the following form:

Procedural and Factual Background

On April 9, 2024 Plaintiff/Appellant, Parklynn Success, LLC, by and through its Form 50 Representative, Latoya Brown, filed a landlord tenant complaint against Defendant/Appellee Sharon Witstil. Plaintiff/Appellant sought a monetary recovery and summary possession of the rental property known as 108 Chestnut Avenue, A-6, Wilmington, DE 19805. Plaintiff/Appellant alleged Defendant/Appellee continued to occupy the rental property and had failed to pay rent as per the lease agreement. On July 10, 2024, attorney James J. Woods, Jr. entered his appearance on behalf of Witstil. On July 29, 2024, attorney Woods filed a motion to dismiss the summary possession action. The Motion was heard pre-trial on August 5, 2024. On August 7, 2024, the Court issued an Order of Dismissal Without Prejudice. On August 12, 2024, Plaintiff filed a timely request for an appeal. Thereafter, the court scheduled a *Trial De Novo*. On August 13, 2024, attorney David C. Zerbato entered his appearance on behalf of Plaintiff/Appellee.

On September 11, 2024, a three-judge panel consisting of Deputy Chief Magistrate Sean McCormick, Justice of the Peace Peter Burcat and Justice of the Peace Maria Perez-Chambers convened to consider the appeal. Plaintiff/Appellant Parklynn Success, LLC appeared via Zoom and through its attorney, Caren Sydnor, Esquire. Attorney Woods and Defendant/Appellee Sharon Witstil likewise appeared via Zoom.

Findings

Pretrial, Attorney Woods, again presented a Motion to Dismiss contending the amount in the 5-day Notice of Rent Default was overstated. He referred to Plaintiff/Appellee's rent ledger and pointed to an entry on September 29, 2022 showing a \$45.00 charge for legal fees – a fee he argued that could not be construed as rent. He further argued the amount has been included as part of the running balance in the ledger and therefore, the sum in the 5-day Notice of Rent Default was overstated. After consideration the Panel denied the Motion because a further review of the Plaintiff's ledger indicated that Witstil had achieved a "zero" balance on the running account on February 6, 2023. Further, ledger entries in November 2023 reflected a surplus balance after a DEHAP rent relief payment was received by Parklynn Success on November 29, 2023.

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At trial, the parties stipulated to the Exhibits; no further Defense was offered. Accordingly, a judgment against Defendant/Appellee was awarded in the amount of \$5,950.00, plus \$50.00 court costs, \$33.00 per diem, and possession of the rental unit known as 108 Chestnut Avenue, A-6, Wilmington, DE 19805 was awarded to Plaintiff/Appellant. By agreement of the parties, the period of time for which the Plaintiff/Appellant may seek the writ of possession was extended to October 31, 2024.

IT IS SO ORDERED 25th day of September, 2024

/s/ Sean McCormick

Deputy Chief Magistrate

On Behalf of Three-Judge Panel



Information on post-judgment procedures for default judgment on Trial De Novo is found in the attached sheet entitled Justice of the Peace Courts Civil Post-Judgment Procedures Three Judge Panel (J.P. Civ. Form No. 14A3J).

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